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CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 6

Introduced by Senators Burton and Bowen

(Principal coauthors: Assembly Members Hertzberg, Florez,
Goldberg, Keeley, Shelley, and Wright)

**(Coauthors: Senators Alpert, Escutia, Karnette, Kuehl, Murray,
Polanco, Scott, and Vincent)**

(Coauthors: Assembly Members Alquist, Aroner, Cedillo, Chan, *Cohn*,
Corbett, Firebaugh, Frommer, Jackson, Koretz, Papan, Romero,
Steinberg, Strom-Martin, Thomson, Washington, and Wiggins)

January 18, 2001

An act to add Division 1.5 (commencing with Section 3300) to the
Public Utilities Code, relating to electrical power, and making an
appropriation therefor.



LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Burton. California Consumer Power and Conservation Financing Authority.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and other specified entities.

The Warren-Alquist State Energy Resources Conservation and Development Act requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for power statewide. The Energy Commission administers existing law with respect to energy conservation.

This bill would create the California Consumer Power and Conservation Financing Authority, with powers and responsibilities as prescribed, including the issuance of revenue bonds, for the purposes of augmenting electric generating facilities and to ensure a sufficient and reliable supply of electricity, financing incentives for investment in cost-effective energy-efficient appliances and energy demand reduction, achieving a specified energy capacity reserve level, providing financing for the retrofit of inefficient electric powerplants, renewable energy and conservation, and, where appropriate, developing strategies for the authority to facilitate a dependable supply of natural gas at reasonable prices to the public. The bill would create in the State Treasury the California Consumer Power and Conservation Financing Authority Fund, and would continuously appropriate all money in the fund, except as specified, for the support of the authority.

The bill would prohibit the authority from approving any new program, enterprise, or project, on or after January 1, 2007, unless authority to approve such an activity is granted by statute enacted on or before January 1, 2007.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Division 1.5 (commencing with Section 3300)
- 2 is added to the Public Utilities Code, to read:
- 3

DIVISION 1.5. CALIFORNIA CONSUMER POWER AND
CONSERVATION FINANCING AUTHORITY ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

3300. The Legislature finds and declares that in order to furnish the citizens of California with reliable, affordable electrical power, to ensure sufficient power reserves, to assure stability and rationality in California's electricity market, to encourage energy efficiency and conservation as well as the use of renewable energy resources, and to protect the public health, welfare, and safety, the state needs to finance, purchase, lease, own, operate, acquire, or otherwise provide financial assistance for public and private facilities for the generation and transmission of electricity and for renewable energy, energy efficiency, and conservation programs.

3301. This division shall be known and may be cited as the California Consumer Power and Conservation Financing Authority Act.

3302. As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) "Act" means the California Consumer Power and Conservation Financing Authority Act.

(b) "Authority" means the California Consumer Power and Conservation Financing Authority established pursuant to Section 3320 and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this division shall be given by law.

(c) "Board" means the Board of Directors of the California Consumer Power and Conservation Financing Authority.

(d) "Bond purchase agreement" means a contractual agreement executed between the authority and an underwriter or underwriters and, where appropriate, a participating party, whereby the authority agrees to sell bonds issued pursuant to this division.

(e) "Bonds" means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond revenue or grant anticipation notes; certificates of indebtedness; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or

1 ownership, including certificates of participation or beneficial
2 interest, asset backed certificates, or lease-purchase or installment
3 purchase agreements, whether taxable or excludable from gross
4 income for state and federal income taxation purposes.

5 (f) “Commission” means the Public Utilities Commission.

6 (g) “Cost,” as applied to a program, project or portion thereof
7 financed under this division, means all or any part of the cost of
8 construction, improvement, repair, reconstruction, renovation,
9 and acquisition of all lands, structures, improved or unimproved
10 real or personal property, rights, rights-of-way, franchises,
11 licenses, easements, and interests acquired or used for a project;
12 the cost of demolishing or removing or relocating any buildings or
13 structures on land so acquired, including the cost of acquiring any
14 lands to which the buildings or structures may be moved; the cost
15 of all machinery and equipment; financing charges; the costs of
16 any environmental mitigation; the costs of issuance of bonds or
17 other indebtedness; interest prior to, during, and for a period after,
18 completion of the project, as determined by the authority;
19 provisions for working capital; reserves for principal and interest;
20 reserves for reduction of costs for loans or other financial
21 assistance; reserves for maintenance, extension, enlargements,
22 additions, replacements, renovations, and improvements; and the
23 cost of architectural, engineering, financial, appraisal, and legal
24 services, plans, specifications, estimates, administrative expenses,
25 and other expenses necessary or incidental to determining the
26 feasibility of any project, enterprise, or program or incidental to
27 the completion or financing of any project or program.

28 (h) “Electrical corporation” has the same meaning as that term
29 is defined in Section 218.

30 (i) “Energy Commission” means the State Energy Resources
31 Conservation and Development Commission.

32 (j) “Enterprise” means a revenue-producing improvement,
33 building, system, plant, works, facilities, or undertaking used for
34 or useful for the generation or production of electric energy for
35 lighting, heating, and power for public or private uses. Enterprise
36 includes, but is not limited to, all parts of the enterprise, all
37 appurtenances to it, lands, easements, rights in land, water rights,
38 contract rights, franchises, buildings, structures, improvements,
39 equipment, and facilities appurtenant or relating to the enterprise.

(k) “Financial assistance” in connection with a project, enterprise or program, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board; the purchase or retention of authority bonds, the bonds of a participating party for their retention or for sale by the authority, or the issuance of authority bonds or the bonds of a special purpose trust used to fund the cost of a project or program for which a participating party is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by this division; bonds for which the authority has provided a guarantee or enhancement; or any other type of assistance determined to be appropriate by the authority.

(l) “Fund” means the California Consumer Power and Conservation Financing Authority Fund.

(m) “Loan agreement” means a contractual agreement executed between the authority and a participating party that provides that the authority will loan funds to the participating party and that the participating party will repay the principal and pay the interest and redemption premium, if any, on the loan.

(n) “Local publicly owned electric utility” has the same meaning as that term is defined in Section 9604.

(o) “Participating party” means either of the following:

(1) Any person, company, corporation, partnership, firm, federally recognized California Indian tribe, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financial assistance from the authority for the purpose of implementing a project or program in a manner prescribed by the authority.

(2) Any subdivision of the state or local government, including, but not limited to, departments, agencies, commissions, cities, counties, nonprofit corporations, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions, that has, or proposes to acquire, an interest in a project, or that operates or proposes to operate a program under Section 3365, and that makes application

1 to the authority for financial assistance in a manner prescribed by
2 the authority.

3 (p) “Program” means a program that provides financial
4 assistance, as provided in Article 6 (commencing with Section
5 3365).

6 (q) “Project” means plants, facilities, equipment, appliances,
7 structures, expansions, and improvements within the state that
8 serve the purposes of this division as approved by the authority,
9 and all activities and expenses necessary to initiate and complete
10 those projects described in Article 5 (commencing with Section
11 3350) and Article 7 (commencing with Section 3368), of Chapter
12 3.

13 (r) “Revenues” means all receipts, purchase payments, loan
14 repayments, lease payments, rents, fees and charges, and all other
15 income or receipts derived by the authority from an enterprise, or
16 by the authority or a participating party from any other financing
17 arrangement undertaken by the authority or a participating party,
18 including, but not limited to, all receipts from a bond purchase
19 agreement, and any income or revenue derived from the
20 investment of any money in any fund or account of the authority
21 or a participating party.

22 (s) “State” means the State of California.

23 3304. Any action taken pursuant to this division is exempt
24 from the Administrative Procedure Act, as defined in Section
25 11370 of the Government Code.

26
27 CHAPTER 2. PURPOSE OF THE CALIFORNIA CONSUMER POWER
28 AND CONSERVATION FINANCING AUTHORITY
29

30 3310. The authority may only exercise its powers pursuant to
31 Article 4 (commencing with Section 3340) of Chapter 3 for the
32 following purposes:

33 (a) Establish, finance, purchase, lease, own, operate, acquire,
34 or construct generating facilities and other projects and
35 enterprises, on its own or through agreements with public and
36 private third parties or joint ventures with public or private entities,
37 or provide financial assistance for projects or programs by
38 participating parties, to supplement private and public sector
39 power supplies, taking into account generation facilities in
40 operation or under development as of the effective date of this

1 section, and to ensure a sufficient and reliable supply of electricity
2 for California's consumers at just and reasonable rates.

3 (b) Finance programs, administered by the Energy
4 Commission, the commission, and other approved participating
5 parties for consumers and businesses to invest in cost-effective
6 energy efficient appliances, renewable energy projects, and other
7 programs that will reduce the demand for energy in California.

8 (c) *Finance natural gas transportation and storage projects*
9 *under Article 7 (commencing with Section 3368) of Chapter 3.*

10 (d) Achieve an adequate energy reserve capacity in California
11 within ~~5~~ five years of the effective date of this division.

12 ~~(d)–~~

13 (e) Provide financing for owners of aged, inefficient, electric
14 powerplants to perform necessary retrofits to improve the
15 efficiency and environmental performances of those powerplants.

16
17 CHAPTER 3. THE CALIFORNIA CONSUMER POWER AND
18 CONSERVATION FINANCING AUTHORITY

19
20 Article 1. Creation of the Authority

21
22 3320. (a) There is hereby created in the state government the
23 California Consumer Power and Conservation Financing
24 Authority, which shall be responsible for administering this
25 division.

26 (b) The authority shall implement the purposes of Chapter 2
27 (commencing with Section 3310), and to that end finance projects
28 and programs in accordance with this division, all to the mutual
29 benefit of the people of the state and to protect their health,
30 welfare, and safety.

31
32 Article 2. Board of Directors

33
34 3325. (a) The authority shall be governed by a five-member
35 board of directors that shall consist of the following persons:

36 (1) Four individuals appointed by the Governor, subject to
37 confirmation by the Senate. These four members shall have
38 considerable experience in power generation, natural gas
39 transportation or storage, energy conservation, financing, or
40 ratepayer advocacy.

1 (2) The State Treasurer.

2 (b) (1) For the initial term, the appointed members shall serve
3 staggered terms as follows:

4 (A) The member appointed first shall serve a term of four years.

5 (B) The member appointed second shall serve a term of three
6 years.

7 (C) The member appointed third shall serve a term of two
8 years.

9 (D) The member appointed fourth shall serve a term of one
10 year.

11 (2) The second and any subsequent terms shall be for four
12 years.

13 ~~(c) Any appointed member of the board shall serve at the~~
14 ~~pleasure of the appointing power.~~

15 ~~(d)~~

16 (c) A quorum is necessary for any action to be taken by the
17 board. Three of the members shall constitute a quorum, and the
18 affirmative vote of three board members shall be necessary for any
19 action to be taken by the board.

20 ~~(e)~~

21 (d) (1) *The chairperson of the board shall be appointed by the*
22 *Governor. This position shall be a full-time, paid position.*

23 (2) Except as provided in this subdivision, the members of the
24 board shall serve without compensation, but shall be reimbursed
25 for actual and necessary expenses incurred in the performance of
26 their duties to the extent that reimbursement for these expenses is
27 not otherwise provided or payable by another public agency, and
28 shall receive one hundred dollars (\$100) for each full day of
29 attending meetings of the authority.

30 3326. (a) The members of the board shall be subject to the
31 Political Reform Act of 1974 (Title 9 (commencing with Section
32 ~~81000)) of the Government Code, the applicable rules and~~
33 ~~standards of the Municipal Securities Rulemaking Board, and all~~
34 ~~81000)) of the Government Code, and all other applicable~~
35 provisions of law.

36 (b) The board may purchase insurance for its fiduciaries or for
37 itself to cover liability or losses occurring by reason of the act or
38 omission of a fiduciary, if the insurance permits recourse by the
39 insurer against the fiduciary in the case of a breach of a fiduciary
40 obligation by the fiduciary.

1 3327. Meetings of the board shall be open to the public and
2 shall be conducted in accordance with the Bagley-Keene Open
3 Meeting Act (Article 9 (commencing with Section 11120) of
4 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
5 Code).

6 3328. The California Public Records Act (Chapter 3.5
7 (commencing with Section 6250) of Division 7 of Title 1 of the
8 Government Code) applies to all records of the authority.
9

10 Article 3. Chief Executive Officer
11

12 3330. The chief executive officer shall manage and conduct
13 the business and affairs of the authority and the fund subject to the
14 direction of the board. Except as otherwise provided in this
15 section, the board may assign to the executive director, by
16 resolution, those duties generally necessary or convenient to carry
17 out its powers and purposes under this division. Any action
18 involving final approval of any bonds, notes, loans, or other
19 financial assistance shall require the approval of a majority of the
20 members of the board.
21

22 Article 4. Powers of the Authority
23

24 3340. The authority is authorized and empowered to do any
25 of the following:

26 (a) Adopt an official seal.

27 (b) Sue and be sued in its own name.

28 (c) Employ or contract with officers and employees to
29 administer the authority. The authority may contract for the
30 services of a chief executive officer, who shall serve at the pleasure
31 of the board. The chief executive officer, subject to the approval
32 of the board, may contract for the services of other persons as are
33 needed to effectuate the purposes of this division. These contracts
34 shall not be subject to any otherwise applicable provisions of the
35 Government Code and the Public Contract Code.

36 (d) Exercise the power of eminent domain.

37 (e) Adopt rules and regulations for the regulation of its affairs
38 and the conduct of its business.

39 (f) Do all things generally necessary or convenient to carry
40 out its powers under, and the purposes of, this division.



1 3341. In connection with the purposes of this division, the
2 authority may do any or all of the following:

3 (a) Issue bonds, from time to time, as further provided in
4 Chapter 5 (commencing with Section 3380.1), to pay all or part of
5 the cost of any enterprise, project, or program, or to otherwise
6 carry out the purposes of this division.

7 (b) Enter into joint powers agreements with eligible public
8 agencies pursuant to Chapter 5 (commencing with Section 6500)
9 of Division 7 of Title 1 of the Government Code.

10 (c) Subject to any statutory or constitutional limitation on their
11 use, do any of the following as may, in the determination of the
12 authority, be necessary or convenient for the successful
13 development, conduct, or financing of a project, program, or
14 enterprise, or for carrying out the purposes of this division:

15 (1) Engage the services, including, without limitation, the
16 services of private consultants; attorneys; financial professionals
17 and advisors; engineers; architects; construction, land use and
18 environmental experts; and accountants, to render professional
19 and technical assistance and advice.

20 (2) Contract for engineering, architectural, accounting, or
21 other services of appropriate state agencies.

22 (3) Pay the reasonable costs, including, without limitation,
23 costs of consulting engineers, architects, accountants, and
24 construction, land use, and environmental experts employed by
25 the authority or any participating party. Except as otherwise
26 provided in Section 3341.5, those costs shall be recovered from
27 participating parties.

28 (d) Acquire, lease, take title to, and sell by installment sale or
29 otherwise, lands, structures, real or personal property, rights,
30 rights-of-way, franchises, easements, and other interests in lands
31 that are located within the state, as the authority determines to be
32 necessary or convenient for an enterprise or the financing of a
33 project, upon terms and conditions the authority considers to be
34 reasonable.

35 (e) Make, receive, or serve as a conduit for the making of, or
36 otherwise provide for, grants, contributions, guarantees,
37 insurance, credit enhancements or liquidity facilities, or other
38 financial enhancements to a participating party as financial
39 assistance for a project or program. The sources may include bond
40 proceeds, dedicated taxes, state appropriations, federal

appropriations, federal grants and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account, or any other source of money, property, labor, or other things of value.

(f) Make loans to any participating party, either directly or by making a loan to a lending institution or other financial intermediary, in connection with the financing of a project or program in accordance with an agreement between the authority and a participating party, either as a sole lender or in participation with other lenders.

(g) Make loans to any participating party, either directly or by making a loan to a lending institution, in accordance with an agreement between the authority and the participating party to refinance indebtedness incurred by the participating party in connection with projects undertaken and completed prior to any agreement with the authority or expectation that the authority would provide financing, either as a sole lender or in participation with other lenders. The power generated by those projects shall be subject to the terms and conditions specified by the authority in the agreement and pursuant to Section 3351.

(h) Mortgage all or any portion of the authority's interest in a project or enterprise and the property on which any project or enterprise is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.

(i) Assign or pledge all or any portion of the authority's interest in assets, things of value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a participating party to which the authority has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the authority, for the benefit of the holders of bonds.

(j) Lease the project being financed to a participating party, upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations thereof; include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents determined

1 by the authority; purchase any or all of the project; or, upon
2 payment of all the indebtedness incurred by the authority for the
3 financing of the project, the authority may convey, any or all of the
4 project to the lessee or lessees. The power generated by those
5 projects shall be subject to the terms and conditions specified by
6 the authority in the agreement and pursuant to Section 3351.

7 (k) (1) Issue, obtain, or aid in obtaining, from any department
8 or agency of the United States, from other agencies of the state, or
9 from any private company, any insurance or guarantee to or for, or
10 any letter or line of credit regarding, the payment or repayment of
11 interest or principal, or both, or any part thereof, on any bond, loan,
12 lease, or obligation or any instrument evidencing or securing the
13 same, made or entered into pursuant to this division.

14 (2) Notwithstanding any other provision of this division, enter
15 into any agreement, contract or other instrument regarding any
16 insurance, guarantee, letter or line of credit specified in paragraph
17 (1), and accept payment in the manner and form provided therein
18 in the event of default by a participating party.

19 (3) Assign any insurance, guarantee, letter or line of credit
20 specified in paragraph (1) as security for bonds issued by the
21 authority.

22 (l) Enter into any agreement or contract, execute any
23 instrument, and perform any act or thing necessary or convenient
24 to, directly or indirectly, secure the authority's bonds or a
25 participating party's obligations to the authority, including, but not
26 limited to, bonds of a participating party purchased by the
27 authority for retention or sale, with funds or moneys that are
28 legally available and that are due or payable to the participating
29 party by reason of any grant, allocation, apportionment, or
30 appropriation of the state or agencies thereof, to the extent that the
31 Controller shall be the custodian at any time of these funds or
32 moneys, or with funds or moneys that are or will be legally
33 available to the participating party, the authority, or the state or any
34 agencies thereof by reason of any grant, allocation,
35 apportionment, or appropriation of the federal government or
36 agencies thereof; and in the event of written notice that the
37 participating party has not paid or is in default on its obligations
38 to the authority, direct the Controller to withhold payment of those
39 funds or moneys from the participating party over which it is or
40 will be custodian and to pay the same to the authority or its

assignee, or direct the state or any agencies thereof to which any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof is or will be legally available to pay the same upon receipt to the authority or its assignee, until the default has been cured and the amounts then due and unpaid have been paid to the authority or its assignee, or until arrangements satisfactory to the authority have been made to cure the default.

(m) Purchase, with the proceeds of the authority's bonds, bonds issued by, or for the benefit of, any participating party in connection with a project, pursuant to a bond purchase agreement or otherwise. Bonds purchased pursuant to this division may be held by the authority, pledged or assigned by the authority, or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority, and notwithstanding any other provision of law, may be bought by the authority at private sale.

(n) Enter into purchase and sale agreements with all entities, public and private, including state and local government pension funds, with respect to the sale or purchase of bonds.

3341.1. In connection with an enterprise, the authority may do any or all of the following:

(a) Acquire any enterprise by gift, purchase, or eminent domain as necessary to achieve the purposes of the authority pursuant to Sections 3310 and 3352.

(b) Construct or improve any enterprise. By gift, lease, purchase, eminent domain, or otherwise, it may acquire any real or personal property, for an enterprise, except that no property of a state public body may be acquired without its consent. The authority may sell, lease, exchange, transfer, assign, or otherwise dispose of any real or personal property or any interest in such property. It may lay out, open, extend, widen, straighten, establish, or change the grade of any real property or public rights-of-way necessary or convenient for any enterprise.

(c) Operate, maintain, repair, or manage all or any part of any enterprise, including the leasing for commercial purposes of surplus space or other space that is not economic to use for such enterprise.

(d) Adopt reasonable rules or regulations for the conduct of the enterprise.

1 (e) Prescribe, revise, and collect charges for the services,
2 facilities, or energy furnished by the enterprise. The charges shall
3 be established and adjusted so as to provide funds sufficient with
4 other revenues and moneys available therefor, if any, to (1) pay the
5 principal of and interest on outstanding bonds of the authority
6 financing such enterprise as the same shall become due and
7 payable, (2) create and maintain reserves, including, without
8 limitation, operating and maintenance reserves and reserves
9 required or provided for in any resolution authorizing, or trust
10 agreement securing such bonds, and (3) pay operating and
11 administrative costs of the authority.

12 (f) Execute all instruments, perform all acts, and do all things
13 necessary or convenient in the exercise of the powers granted by
14 this article.

15 3341.2. In connection with a project, the authority may do any
16 or all of the following:

17 (a) Determine the location and character of any project to be
18 financed under this division.

19 (b) Acquire, construct, enlarge, remodel, renovate, alter,
20 improve, furnish, equip, own, maintain, manage, repair, operate,
21 lease as lessee or lessor, or regulate any project to be financed
22 under this division.

23 (c) Contract with any participating party for the construction of
24 a project by such participating party.

25 (d) Enter into leases and agreements, as lessor or lessee, with
26 any participating party relating to the acquisition, construction,
27 and installation of any project, including real property, buildings,
28 equipment, and facilities of any kind or character.

29 (e) Establish, revise, charge and collect rates, rents, fees and
30 charges for a project. The rates, rents, fees, and charges shall be
31 established and adjusted in respect of the aggregate rates, rents,
32 fees, and charges from all projects so as to provide funds sufficient
33 with other revenues and moneys available therefor, if any, to (1)
34 pay the principal of and interest on outstanding bonds of the
35 authority financing such project as the same shall become due and
36 payable, (2) create and maintain reserves, including, without
37 limitation, operating and maintenance reserves and reserves
38 required or provided for in any resolution authorizing, or trust
39 agreement securing such bonds, and (3) pay operating and
40 administrative costs of the authority.



(f) Enter into contracts of sale with any participating party covering any project financed by the authority.

(g) As an alternative to leasing or selling a project to a participating party, finance the acquisition, construction, or installation of a project by means of a loan to the participating party.

(h) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

3341.5. In connection with the purposes of this division, the authority shall charge and equitably apportion among participating parties or other public or private entities the authority's administrative costs and expenses, including operating and financing-related costs incurred in the exercise of the powers and duties conferred by this division, except to the extent that those costs are related to one of the authority's own enterprises or projects, in which case costs shall be included in the cost of generating that electricity as provided in Section 3351.

3342. The fiscal powers granted to the authority by this division may be exercised without regard or reference to any other department, division, or agency of the state, except the Legislature or as otherwise stated in this division. This division shall be deemed to provide an alternative method of doing the things authorized by this division, and shall be regarded as supplemental and additional to powers conferred by other laws.

3343. No member of the board or any person executing bonds of the authority pursuant to this division shall be personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

3344. All expenses incurred in carrying out this division shall be payable solely from funds provided under the authority of this division and no liability or obligation shall be imposed upon the State of California and, none shall be incurred by the authority beyond the extent to which moneys shall have been provided under this division. Under no circumstances shall the authority create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than the moneys provided under this division.

3345. The authority's operating budget shall be subject to review and appropriation in the annual Budget Act. For purposes

1 of this section, the authority's operating budget shall include the
2 costs of personnel, administration, and overhead.

3 3346. The authority shall, on or before January 1 of each year,
4 prepare and submit to the Governor, the Chairperson of the Joint
5 Legislative Budget Committee, and the chairperson of the
6 committee in each house that considers appropriations, a report
7 regarding its activities and expenditures pursuant to this division.

8 3347. The Bureau of State Audits shall perform an evaluation
9 of the effectiveness of the authority's efforts in achieving its
10 purposes as described in Section 3310. The evaluation shall
11 include recommendations as to whether there is a continued need
12 for the authority beyond January 1, 2007. The evaluation shall be
13 submitted to the Governor and the Legislature on or before January
14 1, 2005.

15 16 Article 5. Generation Facilities 17

18 3350. In evaluating the the eligibility for financing of
19 additional generation facilities, the authority shall utilize the
20 Energy Commission's and the Independent System Operator's, or
21 their successor's, information relating to the need for additional
22 generating facilities and their forecasts of electric supply and
23 demand for the state.

24 3351. (a) All generation-related projects and enterprises
25 financed pursuant to this division shall provide electricity to the
26 consumers of this state at the cost of generating that electricity,
27 including the costs of financing those projects or enterprises. To
28 the extent that electricity is not needed in the state, or that it is
29 financially advantageous to California consumers, the electricity
30 may be sold outside the state *at just and reasonable rates*.

31 (b) If a participating party is an electrical corporation, the
32 commission shall determine the cost of generating electricity and
33 to which entities the electricity is sold.

34 (c) If a participating party is a local publicly owned electric
35 utility seeking to provide electricity to consumers in its service
36 territory, the governing board of that utility shall determine the
37 cost of generating electricity and to which entities the electricity
38 is sold.

39 (d) If neither subdivision (b) nor subdivision (c) applies, the
40 authority shall determine the cost of generating electricity and to

which entities the electricity is sold, consistent with subdivision (a).

3352. In addition to the other powers provided in this division, the activities of the authority under this article are intended to supplement private and public sector power supplies, taking into account generation facilities in operation or under development as of the effective date of this section, consistent with achieving reasonable energy capacity reserves within five years of the effective date of this division.

3353. The authority shall have the authority to receive and act on applications for financial assistance from owners of existing ~~powerplants that are 30 years old or older whose owners or~~ *powerplants whose owners or* operators commit to undertake capacity expansion through facility retrofits, new construction, or both, that will improve the efficiency and environmental performance of generation facilities.

3354. All generation facilities constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

3355. The authority may not invest in any nuclear facilities or develop additional hydroelectric facilities without first receiving specific statutory authorization to do so on a project-by-project basis.

3356. (a) *If the authority determines under Section 3350 that additional electric generation supply is required to meet the purposes of this division, the authority may undertake the following activities to ensure that the authority, or any participating party, is able to build, own, and operate generation facilities as part of a least cost electric supply policy:*

(1) *Identify suitable sites for the construction of generation facilities, taking into account fuel supply, interconnection, community, and environmental factors.*

(2) *Secure rights to the sites identified, including, but not limited to, fee simple acquisition, leaseholds, or options.*

(3) *Conduct any studies that may be necessary to construct and operate generation facilities at the site, including, but not limited to, environmental, engineering, or feasibility studies.*

(4) *Conduct, in coordination with the Energy Commission, all applicable public and community involvement processes.*

1 (5) Apply for permits, licenses, or other local, state, or federal
2 approvals, including, but not limited to, compliance with the
3 applicable procedures of the Energy Commission.

4 (b) The authority may request proposals from qualified
5 participating parties to purchase, lease, or otherwise acquire sites
6 for the purpose of developing generation facilities that will provide
7 the lowest cost power to consumers over the life of the facilities,
8 consistent with Section 3351.

9 (c) The authority shall comply with all applicable air quality
10 laws and regulations and the Warren-Alquist State Energy
11 Resources Conservation and Development Act (Division 15
12 commencing with Section 25000) of the Public Resources Code).

13
14 Article 6. Renewable Energy and Conservation

15
16 3365. The authority may provide loans, utilizing up to one
17 billion dollars (\$1,000,000,000) of the bond authority, under terms
18 and conditions approved by the authority, to any participating
19 party, which shall use that loan to make loans available to
20 California consumers and businesses for all of the following
21 purposes:

22 (a) The purchase of consumer appliances and home
23 improvements with electric and gas energy efficiency or
24 renewable energy characteristics, as approved by the Energy
25 Commission, the commission, or a participating local publicly
26 owned electric utility, as applicable.

27 (b) The purchase or lease of business equipment and facility
28 improvements with electric and gas energy efficiency or
29 renewable energy characteristics, as approved by the Energy
30 Commission, the commission, or a participating local publicly
31 owned electric utility, as applicable.

32 (c) Any other electric or natural gas energy conservation
33 program or any program for the use of renewable energy
34 resources, as approved by the Energy Commission, the
35 commission, or a participating local publicly owned electric
36 utility, as applicable.

37 3366. As a condition of receipt of a loan pursuant to Section
38 3365, a participating party shall be required to conduct a
39 comprehensive marketing program that makes consumers aware
40 of the availability of these financial assistance programs, and to

1 provide appropriate security for repayment of the loan, including,
2 without limitation, a pledge to the authority of consumer and
3 business loan repayments collected through utility bills, as
4 applicable and a certification that the duration of a loan will not
5 exceed the useful life of a purchase.

6 3367. The authority shall require that any equipment or
7 improvement financed by a loan made pursuant to this article shall
8 be certified as having been installed or completed.

9 3367.5. *The authority may require that a participating party*
10 *utilize a consumer protection plan for screening qualified*
11 *contractors who serve consumers under this article.*

12 13 Article 7. Natural Gas

14
15 3368. (a) The commission, in consultation with the Energy
16 Commission, shall prepare and submit to the authority and to the
17 Legislature, within 90 days of the effective date of the act adding
18 this section, a report on the present, planned, and required future
19 capacity of the state's natural gas transportation and storage
20 system to provide adequate, seasonally reliable amounts of
21 competitively priced natural gas to residential, commercial, and
22 industrial customers, including, but not limited to, electric
23 generating plants.

24 (b) The authority may provide financing for natural gas
25 transportation or storage projects recommended to it by the
26 commission. In recommending a project to the authority, the
27 commission shall ensure that the project is in the public interest.

28 (c) Nothing in this section prevents the commission from
29 acting on its own authority to direct gas corporations within its
30 jurisdiction to construct, or facilitate the construction or operation,
31 by the owners or operators of pipelines not within the jurisdiction
32 of the commission, of, natural gas transportation and storage
33 facilities as the commission determines to be needed to provide
34 adequate, seasonally reliable amounts of competitively priced
35 natural gas to residential, commercial, and industrial customers,
36 including, but not limited to, electric generating plants.

Article 8. Energy Resource Investment Plan

3369. (a) Within 180 days of the effective date of this division, the authority, in consultation with the Energy Commission and the Independent System Operator, shall develop an Energy Resource Investment Plan and submit that plan to the Governor and the Joint Legislative Budget Committee and the chairs of the policy committees with jurisdiction over energy policy in the State of California.

(b) The Energy Resource Investment Plan shall take into account California's anticipated energy service needs for both electricity and natural gas over the next decade. The plan shall address issues regarding adequacy of supply, storage, reliability of service, grid congestion, and environmental quality. In developing the investment plan, the authority shall compare the costs of various energy resources, including a comparison of the costs and benefits of demand reduction strategies with the costs and benefits of additional generation supply. The plan shall acknowledge the potential volatility of fossil fuel prices and ~~that~~ the value of resources that avoid ~~the~~ that price risk.

(c) The plan shall outline a strategy for cost-effective energy resource investments, using the financing powers provided to the authority by this division. The plan may recommend changes to the specific expenditure authority granted in this division in order to carry out the investment strategy contained in the plan.

(d) The plan shall be developed with input from interested parties at scheduled public hearings of the authority. The authority should adopt the plan by majority vote of the board at a public meeting. The authority shall update the plan on a regular basis as determined by the authority.

(e) All investments made by the authority under this division shall be consistent with the strategy outlined in the Energy Resource Investment Plan. Nothing in this section shall preclude the authority from exercising its powers prior to the adoption of the initial Energy Resource Investment Plan.

(f) The authority shall be the agency responsible for ensuring that the investment strategy outlined in the Energy Resource Investment Plan is implemented. To that end, the authority may, on its own or through a partnership with a participating party, make

1 *those investments necessary to ensure that the plan is*
2 *implemented.*

3
4 Article 9. Agencies Relation to Other State Energy Oversight

5
6 3369.5. Nothing in this division shall be construed to obviate
7 the need to review the roles, functions, and duties of other state
8 energy oversight agencies and, where appropriate, change or
9 consolidate those roles, functions, and duties. To achieve that
10 efficiency, the Governor may propose to the Legislature a
11 Governmental Reorganization Plan, pursuant to Section 8523 of
12 the Government Code and Section 6 of Article V of the
13 Constitution.

14
15 CHAPTER 4. CALIFORNIA CONSUMER POWER AND CONSERVATION
16 FINANCING AUTHORITY FUND

17
18 3370. (a) There is hereby created in the State Treasury the
19 California Consumer Power and Conservation Financing
20 Authority Fund for expenditure by the authority for the purpose of
21 implementing the objectives and provisions of this division. For
22 the purposes of subdivision (e), or as necessary or convenient to
23 the accomplishment of any other purpose of the authority, the
24 authority may establish within the fund additional and separate
25 accounts and subaccounts.

26 (b) The assets of the fund shall be available for the payment of
27 the salaries and other expenses charged against it in accordance
28 with this division.

29 (c) Except as provided under Section 3345, all moneys in the
30 fund that are not General Fund moneys are continuously
31 appropriated to the authority and may be used for any reasonable
32 costs which may be incurred by the authority in the exercise of its
33 powers under this division.

34 (d) The fund, on behalf of the authority, may borrow or receive
35 moneys from the authority, or from any federal, state, or local
36 agency or private entity, to create reserves in the fund as provided
37 in this division and as authorized by the board.

38 (e) The authority may pledge any or all of the moneys in the
39 fund (including in any account or subaccount) as security for

1 payment of the principal of, and interest on, any particular issuance
2 of bonds issued pursuant to this division.

3 (f) The authority, may, from time to time, direct the Treasurer
4 to invest moneys in the fund that are not required for the authority's
5 current needs, including proceeds from the sale of any bonds, in
6 any securities permitted by law as the authority shall designate.
7 The authority also may direct the Treasurer to deposit moneys in
8 interest-bearing accounts in state or national banks or other
9 financial institutions having principal offices in this state. The
10 authority may alternatively require the transfer of moneys in the
11 fund to the Surplus Money Investment Fund for investment
12 pursuant to Article 4 (commencing with Section 16470) of
13 Chapter 3 of Part 2 of Division 4 of the Government Code. All
14 interest or other increment resulting from an investment or deposit
15 shall be deposited in the fund, notwithstanding Section 16305.7 of
16 the Government Code. Moneys in the fund shall not be subject to
17 transfer to any other fund pursuant to any provision of Part 2
18 (commencing with Section 16300) of Division 4 of the
19 Government Code, excepting the Surplus Money Investment
20 Fund.

21 CHAPTER 5. BONDS

22
23
24 3380.1. For the purposes provided in this division, the
25 authority is authorized to incur indebtedness and to issue securities
26 of any kind or class, at public or private sale by the Treasurer, and
27 to renew the same, provided that all such indebtedness, howsoever
28 evidenced, shall be payable solely from revenues. The authority
29 may issue bonds for the purposes of this division in an amount not
30 to exceed five billion dollars (\$5,000,000,000), exclusive of any
31 refundings.

32 3380.2. In connection with the issuance of bonds, in addition
33 to the powers otherwise provided in this division, the authority
34 may do all of the following:

35 (a) Issue, from time to time, bonds payable from and secured
36 by a pledge of all or any part of the revenues in order to finance the
37 activities authorized by this division, including, without
38 limitation, an enterprise or multiple enterprises, a single project for
39 a single participating party, a series of projects for a single
40 participating party, a single project for several participating



1 parties, or several projects for several participating parties, and to
2 sell those bonds at public or private sale by the Treasurer, in the
3 form and on those terms and conditions as the Treasurer, as agent
4 for sale, shall approve.

5 (b) Pledge all or any part of the revenues to secure bonds and
6 any repayment or reimbursement obligations of the authority to
7 any provider of insurance or a guarantee of liquidity or credit
8 facility entered into to provide for the payment or debt service on
9 any bond.

10 (c) Employ and compensate bond counsel, financial
11 consultants, underwriters, and other advisers determined
12 necessary and appointed by the Treasurer in connection with the
13 issuance and sale of any bond.

14 (d) Issue bonds to refund or purchase or otherwise acquire
15 bonds on terms and conditions as the Treasurer, as agent for sale,
16 shall approve.

17 (e) Perform all acts that relate to the function and purpose of the
18 authority under this division, whether or not specifically
19 designated in this chapter.

20 3381. Bonds issued by the authority are legal investments for
21 all trust funds, the funds of all insurance companies, banks, both
22 commercial and savings, trust companies, executors,
23 administrators, trustees, and other fiduciaries, for state school
24 funds, pension funds, and for any funds that may be invested in
25 county, school, or municipal bonds. The bonds issued under this
26 division are securities that may legally be deposited with, and
27 received by, any state or municipal officer or agency or political
28 subdivision of the state, including, without limitation, local
29 agencies, schools, and pension funds, for any purpose for which
30 the deposit of bonds or obligations of the state is now, or may
31 hereafter be, authorized by law, including deposits to secure public
32 funds.

33 3382. The authority is authorized to obtain loans from the
34 Pooled Money Investment Account pursuant to Sections 16312
35 and 16313 of the Government Code. These loans shall be subject
36 to the terms negotiated with the Pooled Money Investment Board,
37 including, but not limited to, a pledge of authority bond proceeds
38 or revenues.

39 3383. Bonds issued under this division shall not be deemed to
40 constitute a debt or liability of the state or of any political

1 subdivision thereof, other than the authority, or a pledge of the
2 faith and credit of the state or of any political subdivision, other
3 than the authority, but shall be payable solely from the funds herein
4 provided therefor. All bonds issued under this division shall
5 contain on the face thereof a statement to the following effect:
6 “Neither the faith and credit nor the taxing power of the State of
7 California or any local agency is pledged to the payment of the
8 principal of or interest on this bond.” The issuance of bonds under
9 this division shall not directly or indirectly or contingently
10 obligate the state or any political subdivision thereof to levy or to
11 pledge any form of taxation whatever therefor or to make any
12 appropriation for their payment. Nothing in this section shall
13 prevent nor be construed to prevent the authority from pledging its
14 full faith and credit to the payment of bonds or issue of bonds
15 authorized pursuant to this division.

16

17 CHAPTER 6. TERMINATION PROVISIONS

18

19 3384. The authority may not finance or approve any new
20 program, enterprise, or project on or after January 1, 2007, unless
21 authority to approve such an activity is granted by statute enacted
22 on or before January 1, 2007.

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